

LEGAL UPDATE: DEFINING MICHIGAN STATUTES

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EMS Statute

- ▣ Part 209 of P.A. 368 of 1978, as amended is the statute that supports Emergency Medical Services, Medical Control Authorities, life support agencies and personnel.
- ▣ EMS – Life Support Agencies & Medical Control Authority Rules – Dated May 12, 2004
- ▣ EMS – Personnel Licensing Rules – Dated May 12, 2004
- ▣ Statewide Trauma Rules – Dated October 2, 2009

Laws/Rules/Plans

- ▣ PA 192 & 193 of 1996 – DNR
- ▣ PA 232 & 233 of 2000 and PA 488 of 2006 – Safe Delivery of Newborns
- ▣ PA 582 of 2006 – AED
- ▣ PA 261 of 2005 – BLS Non-transport Response
- ▣ PA 200 of 2004
- ▣ PA 6 of 2003 (MFR)
- ▣ PA 233 of 2003 – Epi-Pen
- ▣ Driving Criteria

Laws/Rules/Plans

- ▣ Declaratory Ruling
- ▣ MEDCOM Plan
- ▣ PA 29 of 1994 – 911 Statute & Policy E
- ▣ PA 269 of 2012 (Aircraft Transport)
- ▣ PA 459 of 2012 (Mutual Aid)

AG Opinions

- ▣ Opinion 7056 of 2000 (Jennifer M. Granholm, AG) – addresses two questions related to DNR and court-appointed guardians of developmentally disabled wards.
- ▣ Opinion 7072 of 2001 (Jennifer M. Granholm, AG) – transporting a non-emergency patient from one health facility to another required to follow MCA protocols.
- ▣ Opinion 7165 of 2004 (Mike Cox, AG) – MCA a public body subject to Open Meetings Act

Declaratory Rulings

- ▣ Specific question asked:
 - “May a Medical Control Authority (MCA) adopt a protocol that allows its life support agencies to perform inter-facility transfers which both begin and end outside of the MCA’s jurisdiction?”
- ▣ Specific question asked:
 - “Does the Public Health Code, MCL 333.20901, et seq., which prohibits the operation of an ambulance without a license issued under Part 209, apply to a limousine service licensed under the Limousine Transportation Act, that provides non-emergency transportation to individuals by stretcher?”

Laws that Impact EMS

- ▣ Act 192 & 193 of 1996 – DNR – MCAs are required to establish written protocols addressing do-not-resuscitate procedures. Protocols must comply with the DNR Act (193).
- ▣ Act 582 of 2006 – AED – requires an AED be carried on all life support vehicles except ALS.
- ▣ Act 6 of 2003 – further defines MFR – MFR does not include a police officer solely because his or her police vehicle is equipped with an AED.

Laws that Impact EMS

- ▣ Acts 232, 233, 234 & 235 of 2000 and Act 488 of 2006 – Safe Delivery of Newborns -- focused on educating parents that there are safe choices and protecting the newborn from harm or possible death; created an affirmative defense for parent(s) to surrender an unwanted newborn to an emergency service provider (ESP) within 72 hours of birth; defined an ESP as a uniformed or identified employee of a fire department, hospital, or police station.
- ▣ Act 488 of 2006 expanded the definition of ESP to include a paramedic or EMT when either of these individuals is responding to a 9-1-1 emergency call.

Laws that Impact EMS

- ▣ Act 233 of 2003 – Epi-pen – requires that each life support agency that provides BLS, LALS, or ALS is equipped with epinephrine or Epi-pens. That each person authorized to provide these services is properly trained.
 - A MCA may require an MFR service to meet additional standards for equipment and personnel to ensure that each MFR service is equipped with Epi-pens and that each person is properly trained. **IF, a BLS, LALS, or ALS service is not readily available in that location.**

Ambulance Operation – Act 200 of 2004

- ▣ Amends Section 20921 of Part 209 of PA 368
- ▣ An ambulance operation that is licensed to provide ALS and has more than 1 ambulance licensed under its operation may operate an ambulance licensed at the BLS or LALS at a higher level if the following are met:
 - Has at least 1 ambulance that is properly staffed and available to provide ALS 24/7
 - The licensed personnel required to operate at a higher level are available at the scene and in the ambulance during transport
 - Meets all equipment and communication requirements
 - If the ambulance operation is unable to respond to a request for an emergency immediately, requests assistance.

Driving Criteria

- ▣ Administrative Rule
 - Requires that each individual operating a licensed life support vehicle during an emergency response or patient transport has completed a vehicle operation education and competency assessment.

AG Opinion 7056 of 2000

- ▣ Addresses two questions related to DNR and court-appointed guardians of developmentally disabled wards.
- ▣ “Can a guardian of a developmentally disabled adult who is not of sound mind has authority under the Patient Advocate Act to sign a designation of patient advocate on behalf of the ward?”
 - Opinion: “A guardian of a developmentally disabled adult who is not of sound mind lacks authority under the Patient Advocate Act to sign a designation of patient advocate on behalf of the ward.”

AG Opinion 7056 of 2000

- ▣ Second question: “A guardian of a developmentally disabled adult who is not of sound mind has authority under the Michigan Do-Not-Resuscitate Procedure Act to sign a do-not resuscitate order on behalf of the ward?”
 - Opinion: “A guardian of a developmentally disabled adult who is not of sound mind lacks authority under the Michigan Do-Not-Resuscitate Procedure Act to sign a do-not-resuscitate order on behalf of the ward.”

Opinion 7072 of 2001

- ▣ When transporting a non-emergency patient from one health facility to another must MCA protocols be followed.
 - Opinion: “An emergency medical service, when transporting a person from one health facility to another, must follow protocols adopted by the MCA, regardless of the transported patient’s status as an emergency or non-emergency patient.”

Opinion 7165 of 2004

- ▣ Are MCAs a public body subject to Open Meetings Act?
 - Opinion: “MCAs are subject to Open Meetings Act.”
 - However, MCA’s while discussing matters that fall under “peer review” (e.g, incidents and incident reports, morbidity and mortality discussions, etc., or any kind of protected health information) are not subject to Open Meetings Act. MCA’s should go into closed session and hold these discussions under the PSRO.

DECLARATORY RULINGS

Declaratory Ruling-Interfacility Transfer

- ▣ Specific question asked:
 - “May a Medical Control Authority (MCA) adopt a protocol that allows its life support agencies to perform inter-facility transfers which both begin and end outside of the MCA’s jurisdiction?”

Declaratory Ruling

- ▣ Ruling is limited to the specific facts presented and the statute upon which it is based.
- ▣ Ruling is binding on the MDCH and the applicant unless it is altered or set aside by any court.
- ▣ MDCH may not retroactively change this ruling, but may prospectively do so in its discretion.
- ▣ Ruling is subject to judicial review in the same manner as an agency final decision or order in a contested case.

Declaratory Ruling

- ▣ Response by MDCH:
 - “Medical Control authorities can establish written protocols for the practice of life support agencies within their geographic region. If a MCA were to adopt a protocol detailing how its life support agencies might perform inter-facility transfers which both begin and end outside of the MCA’s region, however, then that protocol might well infringe on the protocols developed by the other MCA where the inter-facility transfer may entirely occur.

Declaratory Ruling

- ▣ Consequently, it is my ruling that under Part 209 of the Public Health Code, a medical control authority may adopt a protocol or protocols that allow its life support agencies to perform inter-facility transfers which both begin and end outside of the MCA’s jurisdiction, as long as those protocols are coordinated with and consistent with the protocols imposed by the MCA in the geographic region(s) where the transfer begins or ends, and have been approved by MDCH.”

Declaratory Ruling- Limousine Transportation Act

- ▣ Specific question asked:
 - “Does the Public Health Code, MCL 333.20901, et seq., which prohibits the operation of an ambulance without a license issued under Part 209, apply to a limousine service licensed under the Limousine Transportation Act, that provides non-emergency transportation to individuals by stretcher?”
 - Response: “Part 209 of the Code applies to a limousine service licensed under the LTA that provides non-emergency stretcher transportation.”

Dispatch Issues

- ▣ Life Support Agencies are licensed by geographic service areas.
- ▣ Section 20948 allows a local governmental unit or combination of local governmental units to operate, or contract for EMS services.
- ▣ Section 20948 also allows a local governmental unit to enact an ordinance regulating EMS services.
- ▣ Michigan Township Act states that a township has the ability to determine who provides EMS.
- ▣ Section 20919 (1)(b) requires a medical control authority to establish:
 - ▣ Medical protocols to ensure the appropriate dispatching of a life support agency based upon medical need and the capability of the EMS system.

Dispatch Issues

- ▣ 9-1-1 Statute requires:
 - Board of commissioners of a county shall adopt a 9-1-1 service plan which shall address operational considerations including, but not limited to, designation of PSAPS and secondary PSAPS, manner in which 9-1-1 calls will be processed, the dispatch functions to be performed, plans for documenting closest public safety service unit dispatching requirements, etc

Dispatch Issues

- ▣ Policy “E” was developed by the State 9-1-1 Committee on September 21, 2010.
- ▣ Purpose was to give PSAP managers and their policy-setting board’s advice on how to manage dispatching of EMS vehicles.
- ▣ What to do when a conflict or dispute in EMS dispatching occurs.
- ▣ The decision of which EMS agency to dispatch is not always as simple as sending the closest unit.

Pending Legislation

- ▣ SB 417 (CISM)
- ▣ HB 4605 (military)
- ▣ HB 4382 (DNR)
- ▣ HB 4384(DNR)
- ▣ HB 4785 (fee bill)
- ▣ HB 4979 (Med Dir)
- ▣ HB 4980 (MCA)
- ▣ HB 4983 (MCA)
- ▣ HB 4984 (911)
- ▣ 9-1-1 Funding
- ▣ HB 5065 – Sonco
- ▣ Administrative Rule Change – Provider Based EDs

QUESTIONS?